

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BOBBY E. BROWN,

Plaintiff,

v.

OTTO MARROQUIN, et al.,

Defendants.

No. 1:21-cv-00087 KES GSA (PC)

ORDER GRANTING DEFENDANTS'
ADMINISTRATIVE MOTION FOR ORDER
SETTING SETTLEMENT CONFERENCE
AND STAYING PROCEEDINGS

(ECF No. 46)

ORDER REFERRING SETTLEMENT
CONFERENCE TO JUDGE STANLEY A.
BOONE

ORDER DIRECTING SETTLEMENT
CONFERENCE TO BE HELD **APRIL 11,**
2024 @ 9:30 a.m. VIA ZOOM
VIDEOCONFERENCING

PARTIES' CONFIDENTIAL SETTLEMENT
CONFERENCE STATEMENTS DUE **APRIL**
4, 2024

Defendants have filed a motion requesting the Court to set a settlement conference in this matter. ECF No. 46. In addition, they request that the Court stay these proceedings and vacate all upcoming deadlines until after the settlement conference is held. Id. at 1. For the reason stated below, the motion will be granted and the parties will be ordered to participate in a settlement conference.

I. MOTION FOR ORDER SETTING SETTLEMENT CONFERENCE

In support of the motion, Defendants state that they believe a settlement conference will facilitate the resolution of the case and that it will avoid unnecessary burden on the Court and the parties. ECF No. 46 at 1. They further state that they believe a settlement conference will avoid the expense and uncertainty of further litigation. Id. Finally, Defendants inform the Court that recently they had a meet-and-confer with Plaintiff and that he is not opposed to participating in a settlement conference.

II. DISCUSSION

Good cause appearing, Defendants' motion for an order setting a settlement conference and staying proceedings will be granted. Accordingly, this matter will be temporarily referred to Magistrate Judge Stanley A. Boone for the sole purpose of conducting the settlement conference. The conference will take place **via video on the Zoom videoconferencing application**, on **April 11, 2024, at 9:30 a.m.** The Court will issue the appropriate appearance writ in due course.

Counsel for Defendants shall contact Courtroom Deputy Jan Nguyen at (559) 499-5672 or JNguyen@caed.uscourts.gov for the video and dial-in information, including any necessary passcodes, for all parties. Counsel for Defendants is also required to arrange for Plaintiff's participation by contacting the Litigation Coordinator at the institution where Plaintiff is housed and providing the necessary Zoom contact information.

Prior to the conference date, the parties shall each submit a confidential settlement conference statement to Judge Boone, as described below, to **arrive** by **April 4, 2024**, which is seven days prior to the conference.

The Court puts the parties on notice that if Plaintiff has any outstanding criminal restitution obligation, fines and/or penalties, these settlement negotiations shall not be geared towards what the restitution obligation is, but what the value of the case itself is to each side, irrespective of any outstanding restitution obligation.

Defendants shall be prepared to negotiate the merits of the case and offer more than a waiver of costs as a reasonable compromise to settle the case. The parties are also informed that an offer of dismissal in exchange for a waiver of costs is not considered good faith settlement negotiations.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendants' motion for order setting settlement conference and staying proceedings (ECF No. 46) is GRANTED;

2. The proceedings in this matter are currently STAYED pending the parties' participation in a settlement conference;

3. All current deadlines in this matter are hereby VACATED, to be re-calendared, if necessary, after the settlement conference;

4. This matter is TEMPORARILY REFERRED to United States Magistrate Judge Stanley A. Boone for the sole purpose of presiding over the settlement conference referenced herein;

5. The settlement conference before Judge Boone shall take place via video on the Zoom videoconferencing application on **April 11, 2024, at 9:30 a.m.**;

6. A representative with full and unlimited authority to negotiate and enter into a binding settlement shall attend via the Zoom videoconferencing application;

7. Those in attendance must be prepared to discuss the claims, defenses and damages. The failure or refusal of any counsel, party or authorized person subject to this order to appear in person may result in the cancellation of the conference and the imposition of sanctions. The manner of Plaintiff's video appearance at the conference is within the discretion of CDCR.

8. Defendants shall provide a confidential settlement statement to the following e-mail address: **saborders@caed.uscourts.gov**. Plaintiff shall mail his confidential settlement statement to U.S. District Court, 2500 Tulare Street, Fresno, California 93721, "**Attention: Magistrate Judge Stanley A. Boone.**" The envelope shall be marked "Confidential Settlement Statement." Settlement statements shall arrive no later than **April, 4, 2024**. Parties shall also file a Notice of Submission of Confidential Settlement Statement (See Local Rule 270(d)). Settlement statements **should not be filed** with the Clerk of Court **nor served on any other party**. Settlement statements shall be clearly marked "Confidential" with the date and time of the settlement conference indicated prominently thereon.

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1 9. The confidential settlement statement shall be **no longer than five pages** in length,
2 typed or neatly printed, and include the following:

- 3 a. A brief statement of the facts of the case.
- 4 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
5 which the claims are founded; a forthright evaluation of the parties' likelihood of
6 prevailing on the claims and defenses; and a description of the major issues in
7 dispute.
- 8 c. An estimate of the cost and time to be expended for further discovery, pretrial, and
9 trial.
- 10 d. The party's position on settlement, including present demands and offers and a
11 history of past settlement discussions, offers, and demands.
- 12 e. A brief statement of each party's expectations and goals for the settlement
13 conference, including how much a party is willing to accept and/or willing to pay.
- 14 f. If parties intend to discuss the joint settlement of any other actions or claims not in
15 this suit, give a brief description of each action or claim as set forth above,
16 including case number(s) if applicable.

17 10. If a settlement is reached at any point during the stay of this action, the parties shall
18 file a Notice of Settlement in accordance with Local Rule 160.

19 11. **Defense counsel shall contact the Litigation Coordinator at the institution where**
20 **Plaintiff is housed to determine whether the institution can accommodate a Zoom video**
21 **appearance by Plaintiff at this date and time.**

22 12. The parties remain obligated to keep the Court informed of their current address at all
23 times during the stay and while the action is pending. Any change of address must be reported
24 promptly to the Court in a separate document captioned for this case and entitled "Notice of
25 Change of Address." See Local Rule 182(f).

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13. A failure to follow these procedures may result in the imposition of sanctions by the Court.

IT IS SO ORDERED.

Dated: **March 19, 2024**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE